APPENDIX

Judgment of the United States Court of Appeals for the District of Columbia Circuit

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

September Term, 1966

No. 19,879

Civil 1997-64

LESTER KRAFT, ET AL., ALVA C. KRAFT, d/b/a National Art Academy, *Appellants,*

v.

BOARD OF EDUCATION OF THE DISTRICT OF COLUMBIA, *Appellee.*

APPEAL FROM the United States District Court for the District of Columbia.

Before: Wilbur K. Miller, Senior Circuit Judge, and Wright and Tamm, Circuit Judges.

JUDGMENT

THIS CAUSE came on to be heard on the record on appeal from the United States District Court for the District of Columbia, and was argued by counsel.

ON CONSIDERATION WHEREOF It is ordered and adjudged by this Court that the judgment of the District Court appealed from in this cause be, and it is hereby, affirmed.

It is further ORDERED by the Court that appellee herein recover from appellants its taxable costs on this appeal, and have execution therefor.

Per Curiam

Dated: Oct. 24, 1966

Opinion of the United States District Court for the District of Columbia

The Opinion of the United States District Court for the District of Columbia, 247 F. Supp. 21, filed November 18, 1965 is set out in the Joint Appendix beginning at page 11.

The "DUE PROCESS CLAUSE" of the Fifth Amendment to the United States Constitution:

> "No person shall * * * be deprived of life, liberty, or property, without due process of law; * * *."

The Federal Statute Involved:

The statute involved in this matter is TITLE 29, D. C. Code § 415, et seq. (Mar. 3, 1901, ch. 854, § 586b, as added Mar. 2, 1929, 45 Stat. 1504, ch. 523).

> TITLE 29 D. C. Code § 415: *License to confer degrees —Issuance by Board of Education—Evidence required.*
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> No institution heretofore or hereafter incorporated under the provisions of this chapter shall have the power to confer any degree in the District of Columbia or elsewhere, nor shall any institution incorporated outside of the District of Columbia or any person or persons individually or as a partnership or association or otherwise, undertaking to confer any degree, operate in the District of Columbia, unless under and by virtue of a license from the Board of Education of the District of Columbia, which before granting any such license may require satisfactory evidence—
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> 1. That in the case of an individual or any unincorporated group of individuals he, or a majority of them, or in the case of an incorporated institution, a majority of the trustees, directors, or managers of said institution are persons of good repute and qualified to conduct an institution of learning.

2. That any such degree shall be awarded only after such quantity and quality of work shall have been completed as are usually required by reputable institutions awarding the same degree: PROVIDED, That if more than one-half the requirements for any degree are earned by correspondence, or extramural study, such fact shall be conspicuously noted upon the diploma conferred: PROVIDED FURTHER, That no diploma shall be issued conferring a degree in medicine or any healing art, or in dentistry, for study pursued or work done by correspondence.

3. That applicants for said degree possess the usual high-school qualifications at the time of their candidacy therefor.

4. That considering the number and character of the courses offered, the faculty is of reasonable number and properly qualified, and that the institution is possessed of suitable classroom, laboratory, and library equipment."

* * *

TITLE 29 D. C. Code § 417: *Revocation of license—Hearing Before Board of Education—Review by District Court.*

A license once issued may be revoked by said Board of Education for noncompliance on the part of any individual or individuals, associations, or incorporated institution so licensed with the provisions of section 29-415. Upon the revocation of any such license it shall be the duty of the secretary of the Board of Education, in the case of an institution incorporated under the laws of the District of Columbia, to forward a copy of the revocation to the recorder of deeds for the District of Columbia, who shall cause a notation to be placed upon the certificate of incorporation to the effect that its authority

to confer degrees has been revoked; PROVIDED, HOWEVER, That thirty days' notice shall first have been given to such individual or individuals, association or to the trustees, directors, or managers of said institutions, with full opportunity to be heard by said Board of Education at either a public or non-public session thereof, as may be desired by such individual or individuals, association, or the institution threatened with revocation of its license, and the evidence upon which said board shall act in the revocation of such license shall be committed to writing under the direction of the board, and upon application therefor a copy thereof furnished to such individual or individuals, association, or the institution whose license has been revoked: AND PROVIDED FURTHER, That any party aggrieved by the action of said board in refusing to license or in revoking a license previously granted may have the action of the said Board of Education reviewed by the District Court of the United States for the District of Columbia at an equity term thereof, (Mar. 3, 1901, Ch. 854, § 586d, as added Mar. 2, 1929, 45 Stat. 1504, ch. 523.)

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TITLE 29 D. C. Code § 419. *Penalties.*

Any person or persons who shall, directly or indirectly, participate in, aid, or assist in the conferring of any degree by any unlicensed individual or individuals, association, or institution, or by any individual or individuals, association, or institution whose license has been revoked, or shall advertise or claim any authority to confer any such degree, except in pursuance of provisions of sections 29-414 to 29-419, or who shall violate the provisions of section 29-418 shall be deemed guilty of a misdemeanor, and upon conviction thereof in the District Court of the

United States for the District of Columbia shall be punished by a fine of not more than $2,000, or imprisonment for not more than two years, or both, (Mar. 3, 1901, ch. 854, § 586f, as added Mar. 2, 1929, 45 Stat. 1505, ch. 523.)

Regulations Involved:

The regulations involved are "Standards for Approving Institutions Licensed by the Board of Educatoin" adopted by Respondent on October 19, 1960 and set out in the Joint Appendix at pages 19 to 23.

Federal Rules of Civil Procedure:

RULE 25. *Substitution Of Parties.*

(d). Public Officers; * * *

(2) When a public officer sues or is sued in his official capacity, he may be described as a party by his official title rather than by name; but the court may require his name to be added.

RULE 52. *Findings By The Court.*

(a). Effect. In all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specially and state separately its conclusions of law thereon, and judgment shall be entered pursuant to Rule 58; and in granting or refusing interlocutory injunctions the court shall similarly set forth the findings of fact and conclusions of law which constitute the grounds of its action. Requests for findings are not necessary for purposes of review. Findings of fact shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge of the credibility of the witnesses. The findings of a master, to the extent that the court adopts them, shall be considered as the find-

ings of the court. If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact and conclusions of law appear therein. Findings of fact and conclusions of law are unnecessary on decision of motions under Rules 12 or 56 or any other motion except as provided in Rule 41(b).

(Amended July 1, 1963)